

(X)
CAT/J/12

Reinstated (Sud)
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
XXXXXX XXXXXXXX

O.A. No. 504 OF 1987
XXXXXX

DATE OF DECISION 24-04-1991

Mr. Babulal Ramjibhai **Petitioner**

Shri R.J.Oza **Advocate for the Petitioner(s)**

Versus

Union of India and others **Respondent**

Shri R.M.Vin **Advocate for the Respondent(s)**

CORAM :

The Hon'ble Mr. M. M. Singh : Administrative Member

The Hon'ble Mr. S. Santhana Krishnan : Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

Babulal Ramjibhai,
Railway Station,
Palitana,
Dist. Bhavnagar.

...Petitioner.

Versus

1. Union of India,
(Notice to be served through :
The General Manager,
Western Railway,
Churchgate,
Bombay - 400 001.
2. The Divisional Railway Manager,
Bhavnagar Division,
Western Railway,
Bhavnagar Para,
Bhavnagar.

...Respondents.

JUDGMENT

O.A. No. 504 OF 1987.

Date : 24-04-1991

Per : Hon'ble Mr.S.Santhana Krishnan : Judicial Member

In this application filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985, the applicant originally required this court to extend the benefit of the judgment T.A. 183 to 186 of 1987 delivered on 21.7.1987 be extended to them, and that his termination on 9.10.1982, is illegal and arbitrary. Subsequently he ^{re} amend the prayer and now wants this court to direct the respondents to publish the seniority list of the casual labourers of the Bhavnagar Division in consonance with the scheme introduced by the Supreme Court in Indrapal's case and that the respondents should register his claim as per the Supreme Court's judgment.

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2. The applicant claims that he was originally working as casual labourer under the respondent from February 5, 1980 to October, 8, 1982, and that he continuously worked for more than 120 days. He claims that the respondents issued a circular dated 20.3.1982, whereby casual labourers working in the coal section was shown as different class and this amounts to creation of artificial class. The petitioner was allowed to work upto 8.10.1982, and thereafter he was not permitted to resume duty on 9.10.1982. The other casual labourers who were placed in similar position challenged their termination and notification in T.A. 183 to 186 of 1987 and they have succeeded. The petitioner approached Shri Namavati, the then Divisional Railway Manager who informed him that the outcome of the Judgment will be made applicable to the petitioner. Relying upon the word and also in view of his weak financial position he did not file immediately any petition.

3. The respondents in their reply stated that the services of the applicant was legally terminated on 27.4.1982, afternoon giving him the retrenchment compensation, notice pay and other benefits as per Industrial Disputes Act. It is not correct to state that the applicant worked under the respondents up to 8.10.1982, and his services were terminated from 9.10.1982. Further, the application is also barred by limitation. In respect of coal loading it was done only through the contract in 1980 and when the contract terminatted the contract for a short period, the administration did the coal loading work for short time. It is false to state that the applicant was working from February 1980 onwards. The date of appointment of applicant is 8.5.1980. He was engaged for the coal loading work in the manner referred above and not with the reference to any employment notice. As the applicant's services were terminated on 27.4.1982, he cannot claim any relief in this application.

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4. When the application was taken up for enquiry Mr.R.J. Oza, counsel for applicant was absent, Mr.R.M.Vin, argued for the respondents. Records were also perused.

5. The applicant now claims in his application that the scheme envisaged by the Supreme Court be implemented and he should be given benefit under the scheme. On the other hand in para 3 of the application the applicant still claims the benefit of T.A. 183 to 186 of 1987, should be ~~extended~~ ⁽¹⁰⁾ ~~extended~~ to him and he should be reinstated. This portion is still not ~~amended~~.

6. The applicant will have to first establish that he has got a cause of action to file this application and this application is not barred by limitation. Admittedly the applicant was not allowed to resume duty on 9.10.1982. Hence, he ought to have filed an application within one year from this date. It is not his case that he made any representation in writing to the respondents about his termination. The applicant is not a party ~~to~~ T.A. 183 to 187. Further the applicant himself produces in annexure -A/1, the copy of the judgment. The judgment does not anywhere states that the benefit should be extended to all other casual labourers placed ~~in~~ ⁱⁿ similar situation. When the applicant was aware that the other applicants have filed an application against their termination, if the applicant has got any grievance he ought to have impleaded himself as a party in the above application. Further, the present application is filed only on 23.11.1987 five years after the termination. The applicant failed to give any reasonable explanation in the application how the application is in time. The applicant has also not chosen to file any application under Section 21 (3) of the Administrative Tribunals Act. Hence there is no cause of any action for this application. The present application is also hopelessly barred by limitation.

7. Even on perusal of the plea shows that the applicant in fact wants this Tribunal to enforce the judgment of the Supreme Court in the Indrapal's case. The applicant fails to rely on any provision of the Act whereby this court can enforce the judgment of the Supreme Court. No authority is also produced by the applicant on this aspect. Hence we find that this court cannot enforce the judgment of the Supreme Court. Even on this ground the applicant is not entitled to claim any relief in his application.

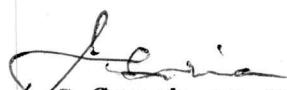
8. In this application the applicant claim relief on the ground that he is working under the respondents from February, 1980 to 8.10.1982. In fact in para 3 of the application his grievance is that he ^{was} is not allowed to ~~continue~~ ^{work} the work from 9.10.1982 onwards. On this aspect the respondents specifically point out in their reply that the applicant's service was terminated on 27.4.1982, after ^{complying} complying with the provisions of Section 25 F of the Industrial Disputes Act. The applicant has not chosen to file any rejoinder disputing the allegation. The applicant fail to produce any record to show that he is working under the respondents after 27.4.1982. Hence the applicant fail to establish that he ^{was} is working under the respondents up to 8.10.1982 and his services were terminated on 9.2.1982.

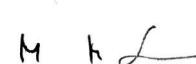


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9. Though the applicant contends in this application that he is working under the respondents upto 8.10.1982, he fail to produce either his service card or muster roll to establish that he is working under the respondents till 8.10.1982. Hence the application miserably fail to establish that he is working under the respondents upto 8.10.1982. It follows that the applicant fail to establish that his services were terminated from 9.10.1982 ~~as contended~~ as contended by him.

10. The applicant further claims that he approached one Mr.Nanavati the then Divisional Railway Manager who informed him that the judgment under T.A. 183 to 187 of 1987, will be extended to him also. This is denied by the respondents. The applicant fails to produce any affidavit from the above said Mr.Nanavati, to prove that he gave any such assurance. As the present application is devoid of merits, the applicant is not entitled to claim any relief in this application, as such the application stands dismissed. No order as to costs.


(S. Santhana Krishnan)
Judicial Member


(M. M. Singh)
Administrative Member